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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
09/304,716	05/04/99	CREE	J 4546RC2D

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EXAMINER
KIDWELL, M

ART UNIT	PAPER NUMBER
3761	

DATE MAILED:

07/05/01

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

Office Action Summary

Application No.

09/304,716

Applicant(s)

CREE ET AL.

Examiner

Michele M. Kidwell

Art Unit

3761

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 09 April 2001.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 6-12 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 6-12 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claims _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are objected to by the Examiner.
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

Attachment(s)

- 15) ☒ Notice of References Cited (PTO-892)
- 16) ☒ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 17) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 3.
- 18) ☐ Interview Summary (PTO-413) Paper No(s) _____.
- 19) ☐ Notice of Informal Patent Application (PTO-152)
- 20) ☐ Other:

DETAILED ACTION

Specification

The amendment filed May 4, 1999 is objected to under 35 U.S.C. 132 because it introduces new matter into the disclosure. 35 U.S.C. 132 states that no amendment shall introduce new matter into the disclosure of the invention. The added material which is not supported by the original disclosure is as follows: the specification does not support a molded fluff pulp with uniform thickness.

Applicant is required to cancel the new matter in the reply to this Office Action.

Claim Rejections - 35 USC § 112

Claim 9 is rejected under 35 U.S.C. 112, first paragraph, as containing subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention. The applicant has claimed a molded fluff pulp with uniform thickness. This limitation is not supported by the specification and would not allow one of ordinary skill in the art to make and/or use the invention.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

Claims 6 – 8 and 10 – 12 are rejected under 35 U.S.C. 102(e) as being anticipated by Reising (US 4,988,345).

As to claim 6, Reising discloses a sanitary napkin (col. 31, lines 48 – 52) comprising a liquid permeable top layer (38), a liquid impermeable back layer (40), and a liquid absorbent core disposed between the top layer and the back layer (figure 3) wherein the top layer has a central zone and side zones at both sides of the central zone (figure 3) and the top layer includes an upper layer of thermoplastic synthetic resinous material (col.5, lines 14 – 22) and a lower layer (50) of thermoplastic synthetic fibers which are more hydrophilic than the upper layer but less hydrophilic than the core (col. 14, line 1 to col. 15, line 7) wherein upper and lower layers are intermittently bonded together by thermal embossing (col. 16, lines 59 – 64) and the central zone is thicker than the sides zones as set forth in figure 2. Additionally, the incorporation of U.S. Patent No. 4,573,986 discloses the use of thermal embossing in the side zones as set forth in figure 1 designated by reference numeral 46.

With reference to claim 7, Reising discloses a sanitary napkin wherein the lower layer is coextensive substantially with an entire surface of the upper layer as set forth in figure 2.

As to claim 8, Reising discloses a sanitary napkin wherein portions of the top layer and the back layer extend outwards beyond a peripheral edge of the core and are bonded together by seal line as set forth in col. 6, lines 1 – 16.

Regarding claims 10 and 11, Reising discloses a sanitary napkin wherein the thermoplastic resinous material is a fibrous nonwoven fabric or a perforated film as set forth in col. 5, lines 11 – 34.

As to claim 12, Reising discloses a sanitary napkin (col. 31, lines 48 – 52) comprising a liquid permeable top layer (38), a liquid impermeable back layer (40), and a liquid absorbent core disposed between the top layer and the back layer (figure 3) wherein the top layer has a central zone and side zones at both sides of the central zone (figure 3) and the top layer includes an upper layer of thermoplastic synthetic resinous material (col.5, lines 14 – 22) and a lower layer (50) of thermoplastic synthetic fibers (col. 14, line 1 to col. 15, line 7) wherein upper and lower layers are intermittently bonded together by thermal embossing (col. 16, lines 59 – 64) and the central zone is thicker than the sides zones as set forth in figure 2. Additionally, the incorporation of U.S. Patent No. 4,573,986 discloses the use of thermal embossing in the side zones as set forth in figure 1 designated by reference numeral 46.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claim 8 is rejected under 35 U.S.C. 103(a) as being unpatentable over Reising (US 4,988,345).

Absent of critical teaching and/or unexpected results, the examiner contends that the use of a molded fluff pulp having uniform thickness would have been an obvious matter of design choice which does not patentably distinguish the claimed invention from the prior art invention.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Michele M. Kidwell whose telephone number is 703-305-2941. The examiner can normally be reached on Monday thru Friday, 7:00am - 3:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John G. Weiss can be reached on 703-308-2702. The fax phone numbers for the organization where this application or proceeding is assigned are 703-305-3590 for regular communications and 703-305-3590 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-0858.

Michele Kidwell
Michele Kidwell
June 28, 2001

[Signature]

Special Agent in Charge
Patent and Trademark Office
U.S. Department of Commerce